

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
EASTERN DIVISION

Case No. 3:17-cr-206-03

United States of America,)
)
Plaintiff,)
)
vs.)
)
)
Anthony Santos Gomes,)
aka Ant,)
)
Defendant.)

T R A N S C R I P T

OF

P R O C E E D I N G S

(Plea Hearing)

Taken at:
Quentin N. Burdick U.S. Courthouse
655 First Avenue North
Fargo, North Dakota

May 14, 2018
3:10 p.m.

BEFORE: Honorable Brian S. Miller

COURT REPORTER: Carolyn Taylor Pekas, RPR

A P P E A R A N C E S

Christopher C. Myers, Esq.
UNITED STATES ATTORNEY
Office of the United States Attorney
Quentin N. Burdick United States Courthouse
655 First Avenue North, Suite 250
Fargo, North Dakota 58102-4932
(701) 297-7400
chris.c.myers@usdoj.gov
COUNSEL FOR PLAINTIFF

Steven R. Morrison, Esq.
1526 Robertson Court
Grand Forks, North Dakota 58201
(617) 749-7817
steven.r.morrison@gmail.com
COUNSEL FOR DEFENDANT

P R O C E E D I N G S

(May 14, 2018. The following proceedings commenced at 3:10 p.m.)

THE COURT: The last case on the docket for today is United States of America vs. Anthony Gomes. The case number is 17-cr-206.

Mr. Gomes is in the courtroom with his lawyer, Steven Morrison. I have on here Bruce Ringstrom or Steven Morrison, so I've been up here asking who is who.

You are Mr. Morrison?

MR. MORRISON: You've got it right, Your Honor.

THE COURT: No, I didn't get it right. I had help.

And the United States is being represented by Christopher Myers.

Mr. Gomes, would you stand and raise your right hand so we can swear you in?

ANTHONY SANTOS GOMES, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

THE COURT: Mr. Gomes, how old are you?

THE DEFENDANT: 33.

THE COURT: And how much education do you

1 have?

2 THE DEFENDANT: Graduated high school.

3 THE COURT: And have you had any drugs or
4 alcohol or any type of medication today --

5 THE DEFENDANT: No, I haven't.

6 THE COURT: -- that would make it difficult
7 for you to understand what we're doing?

8 THE DEFENDANT: No, not at all.

9 THE COURT: Okay. And do you fully
10 understand why you're in the courtroom this
11 afternoon?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: Okay. And you're being
14 represented by Steven Morrison. Have you had a
15 chance to meet with Mr. Morrison about your case?

16 THE DEFENDANT: Yes, I have.

17 THE COURT: And have you had a chance to
18 discuss it with him?

19 THE DEFENDANT: Yes, I have.

20 THE COURT: Okay. Are you satisfied with
21 the legal representation he's given you so far?

22 THE DEFENDANT: Yes, I am.

23 THE COURT: Okay. And, Mr. Morrison, have
24 you had a chance to meet with Mr. Gomes today?

25 MR. MORRISON: Yes, Your Honor.

1 THE COURT: Is there anything about him that
2 would lead you to believe he's not competent to go
3 forward with this plea?

4 MR. MORRISON: No, Your Honor.

5 THE COURT: Okay. I find that the
6 Defendant, Anthony Santos Gomes, is competent to go
7 forward with the plea.

8 Mr. Gomes, it's my understanding that you
9 want to enter a plea of guilty -- well, waive
10 indictment to an Information and enter a plea of
11 guilty to the Information and to Count One of the
12 Superseding Indictment. Is that true?

13 THE DEFENDANT: That is correct.

14 THE COURT: Okay. I will tell you that I
15 have never had a defendant plead guilty to an
16 Information and to an Indictment at the same time,
17 and so if I confuse you at any point in explaining
18 your rights to you, just let me know and we will make
19 sure we make a good record. Okay?

20 THE DEFENDANT: Not a problem.

21 THE COURT: Okay. Now, let me do this. I
22 am going to read the Information first. This is what
23 you're being charged with. It says that "From in or
24 about January 2013 to in or about August 2016, in the
25 Districts of North Dakota, Oregon, Florida, Georgia,

1 North Carolina, New Jersey, California,
2 South Carolina, Ohio, Colorado, Maryland, and
3 elsewhere, Anthony Santos Gomes did knowingly and
4 willfully combine, conspire, confederate, and agree
5 together and with others, to commit an offense
6 against the United States, specifically: to violate
7 Title 18, United States Code, Sections
8 1956(a)(1)(B)(i) and (a)(2)(B)(i), in that members of
9 the conspiracy did knowingly and intentionally
10 conduct and attempt to conduct financial transactions
11 in and affecting interstate and foreign commerce
12 within the United States by moving monetary
13 instruments from the United States to Canada and
14 China as described below, which involved the proceeds
15 of a specified unlawful activity, that is, the
16 distribution and importation of controlled substances
17 and controlled substance analogues intended for human
18 consumption."

19 And then it has overt acts. No. Let me
20 step back. I just didn't want to read the statute,
21 but I guess I will. "Title 21, United States Code,
22 Sections 802(32), 812, 813, 841, 846, 848, 952, 960
23 and 963, knowing that the transactions were designed
24 in whole and in part to conceal and disguise the
25 nature, location, source, ownership, and control of

1 the proceeds of the said specified unlawful
2 activity."

3 Now, let me ask this question before I read
4 the overt acts. Mr. Morrison, is there any reason
5 for me to read the overt acts, or do you waive that?

6 MR. MORRISON: We waive it, Your Honor.

7 THE COURT: And, Mr. Myers, any reason to
8 read the overt acts? Would you prefer that I do? I
9 can. It doesn't matter, but --

10 MR. MYERS: No, Your Honor, that's fine. I
11 will, in the factual basis, provide adequate support
12 for the entire Information.

13 THE COURT: I understand.

14 And here's the thing, Mr. Gomes. Normally,
15 I read the Information and the Indictment just
16 because I want to have a record the person
17 understands what he or she is entering a plea of
18 guilty to.

19 So have you had a chance to read this
20 Information?

21 THE DEFENDANT: Yes, I have.

22 THE COURT: Okay. Do you understand that in
23 the federal system in the United States we can't
24 charge you by Information unless you waive
25 indictment?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that if you
3 did not waive indictment, that you would have a right
4 to have your case taken to a grand jury which
5 consists of at least 16 but not more than 23 persons,
6 and at least 12 of those grand jurors would have to
7 determine that there's probable cause to believe that
8 a crime has been committed?

9 THE DEFENDANT: Yes.

10 THE COURT: And what happens is the
11 Government will go into the grand jury and present
12 the Information to the grand jury, and then the grand
13 jury has to determine if there's probable cause.

14 Now, the grand jury can do a couple of
15 things or several things. The grand jury can
16 determine there is no probable cause to indict you on
17 this count that's listed in the Information; the
18 grand jury could determine that there is probable
19 cause to indict you on the charge contained in the
20 Information; or the grand jury can come back and
21 indict you on something else that's not even listed
22 in the Information. So there are three options, and
23 understand that any one of those could happen. Do
24 you understand that?

25 THE DEFENDANT: I do.

1 THE COURT: Okay. Now, have you had a
2 chance to discuss waiving grand jury with your
3 counsel?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. And do you understand
6 your right to a grand jury?

7 THE DEFENDANT: Yes.

8 THE COURT: Have any threats or promises
9 been made to you to get you to waive indictment?

10 THE DEFENDANT: No.

11 THE COURT: And do you waive indictment
12 voluntarily?

13 THE DEFENDANT: Yes.

14 THE COURT: Okay. Now, this came up a
15 little earlier, Mr. Morrison and Mr. Myers. In my
16 district back home, normally we have a formal waiver
17 signed off on, and I understand that in the Bismarck
18 division that happens as well. I understand that in
19 Fargo, normally the verbal record or the record of
20 the hearing suffices for waiving indictment. Just
21 wanted to make sure we had a record of that.

22 Is there any objection to proceeding without
23 signing off on a written waiver form?

24 MR. MORRISON: No objection from me, Your
25 Honor.

1 THE COURT: Okay.

2 MR. MYERS: No, Your Honor.

3 THE COURT: Okay. Mr. Morrison, let me ask
4 you a question. Do you know of any reason why
5 Mr. Gomes should not waive indictment?

6 MR. MORRISON: I do not.

7 THE COURT: Okay. And, Mr. Gomes, do you
8 understand your right to an indictment by grand jury?

9 THE DEFENDANT: I do.

10 THE COURT: And do you voluntarily waive it?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: And agree to proceed on the
13 Information?

14 THE DEFENDANT: Yes.

15 THE COURT: Okay. Now, also, so you've been
16 charged by Information, and it's also my
17 understanding that you want to enter a plea of guilty
18 to the Information and to Count One of the
19 Indictment. Is that true?

20 THE DEFENDANT: That is correct.

21 THE COURT: Count One -- I thought this was
22 the one. Count One of this Indictment, it's fairly
23 lengthy. Normally, I would read the count so that
24 the Defendant -- so that I have a record that the
25 Defendant is aware of exactly what he's being charged

1 with and what he's entering a plea of guilty to.

2 Mr. Morrison, have you had a chance to go
3 over this Indictment with Mr. Gomes?

4 MR. MORRISON: I have, Your Honor.

5 THE COURT: Mr. Gomes, have you had a chance
6 to speak with Mr. Morrison about Count One of the
7 Indictment?

8 THE DEFENDANT: Yes. I've been over it
9 plenty of times.

10 THE COURT: Okay. Do you waive me reading
11 this to you? Are you familiar with it?

12 THE DEFENDANT: Yes, I'm very familiar with
13 it.

14 THE COURT: Okay. And let me ask the
15 Government, do you have any objection to me not
16 reading Count One of the Indictment?

17 MR. MYERS: No objection.

18 THE COURT: Because we might be here another
19 20 minutes if I decided to read all of it.

20 All right. We'll proceed. Now, you
21 understand, Mr. Gomes, that just because you have --
22 it's my understanding you want to enter a plea of
23 guilty to Count One. Is that true?

24 THE DEFENDANT: Yes, that is correct.

25 THE COURT: Do you understand that just

1 because you waive indictment on the Information that
2 you're not required to enter a plea of guilty?

3 THE DEFENDANT: Yes.

4 THE COURT: And do you also understand that
5 you're not required to enter a plea of guilty to
6 Count One of the Indictment?

7 THE DEFENDANT: Yes.

8 THE COURT: And, in fact, on both the
9 Indictment and the Information, you have a right to
10 either enter a plea of guilty or stand on your plea
11 of not guilty, and if you did so, you would have a
12 right to a speedy and public jury trial?

13 THE DEFENDANT: Yes.

14 THE COURT: And if we were to have a trial,
15 it would be held in either this courtroom or the one
16 next door, and we would have 12 jurors who would come
17 in from the community, just people from the
18 community, who would sit in those chairs over there
19 to your right and listen to the case, and the
20 Government would have to prove the case against you
21 beyond a reasonable doubt. Do you understand that?

22 THE DEFENDANT: I do.

23 THE COURT: Do you understand that you have
24 a presumption of innocence, which means you don't
25 have to prove or disprove anything during the course

1 of the trial; and, in fact, you have the
2 constitutional right to be free from
3 self-incrimination, which means you don't have to
4 testify at all, and that the jury cannot use that
5 against you? Do you understand that?

6 THE DEFENDANT: I do.

7 THE COURT: All right. In a case like this,
8 we would probably -- the Government would probably
9 come in and put on witnesses, such as law
10 enforcement, people who bought or sold to the
11 conspiracy, or even coconspirators, if they had any.
12 Those are the types of witnesses we would hear from.
13 Considering that this is -- we do have a drug charge,
14 the Government will probably put on an expert from
15 the crime lab who would come in here and testify as
16 to what the substance is, how it affects the body,
17 the fact that it's illegal, and would probably have
18 somebody testify about it moving in interstate
19 commerce. Do you understand that?

20 THE DEFENDANT: I do.

21 THE COURT: Now, the Government probably has
22 seized some drugs, probably has other documentary
23 evidence to put in; they might even have photos or
24 videos or even phone taps in some cases, and the
25 Government would want to come in here and display

1 that to the jury. Do you understand that you would
2 have a right to object to those items coming into
3 evidence, and then I would have to decide whether
4 those items do come into evidence?

5 THE DEFENDANT: I do.

6 THE COURT: And do you also understand that
7 you have a right to confront the Government's
8 witnesses against you, and what that means is
9 Mr. Morrison -- when one of those witnesses
10 testifies, Mr. Morrison would then get up and
11 cross-examine them to make sure that their testimony
12 that has been given is both truthful and accurate.
13 Do you understand that?

14 THE DEFENDANT: I do.

15 THE COURT: Now, once the Government puts on
16 its case, then you have some decisions to make. One
17 of those decisions is going to be whether you call
18 witnesses to testify for you. Although you have a
19 right -- although you don't have to prove or disprove
20 anything, if you know somebody who knows something
21 about the case and you want to put them on the
22 witness stand and have them testify, you have a right
23 to do that.

24 Also, although you have a right to be free
25 from self-incrimination, if you want to sit on this

1 witness stand with the jury -- in their faces and
2 tell them what happened or what didn't happen, you
3 have a right to do that, too. Do you understand
4 that?

5 THE DEFENDANT: I do.

6 THE COURT: Now, understand this, that if
7 you testify, if you call witnesses to testify, then
8 the Government has a right to cross-examine you and
9 your witnesses, also, just like you had a right to
10 cross-examine theirs. Do you understand?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Now, once all the evidence is
13 in, those 12 jurors would go back to the jury room
14 and -- we say "deliberate," but all that means is
15 they'll go back there and talk about the case, and
16 they'll sit back there and they'll try to determine
17 whether the Government proved the case against you
18 beyond a reasonable doubt.

19 If the jury determines that the Government
20 did not prove the case against you beyond a
21 reasonable doubt, that jury will find you not guilty;
22 and if you're found not guilty, your case is over and
23 the Government cannot bring the case against you
24 again based on these facts. Do you understand that?

25 THE DEFENDANT: I do.

1 THE COURT: Do you also understand that if
2 the jury determines that the Government did prove the
3 case against you beyond a reasonable doubt, the jury
4 will find you guilty; and if you are found guilty,
5 then you have a right to an appeal.

6 Now, if you do appeal, your case would
7 probably be appealed to three judges sitting in
8 St. Paul, Minnesota, and those judges would not hear
9 new evidence. So if you had a witness who didn't
10 show up for trial, you can't go get a statement from
11 that witness and send it to the judges. If you want
12 to carry a witness up to the Court of Appeals, you
13 can't do it. All the Court of Appeals, those three
14 judges, will do is read the transcript from the
15 trial -- see how the court reporter's sitting here
16 typing?

17 THE DEFENDANT: Uh-huh.

18 THE COURT: She'll be at trial, too, and the
19 Court of Appeals will get a transcript of that trial,
20 and they will read it, and they'll determine whether
21 I made any mistakes during the course of your trial
22 that caused you to lose. In the law, that's called
23 "error," but all that means is I made a mistake. Do
24 you understand that?

25 THE DEFENDANT: I do.

1 THE COURT: All right. And if the Court of
2 Appeals determines that I did not make a mistake that
3 caused you to lose, the Court of Appeals will affirm
4 the jury's verdict and your case would be over,
5 because the likelihood of getting to the Supreme
6 Court is almost zero. Just understand that.

7 If the Court of Appeals determines that I
8 did make a mistake that caused you to lose, the Court
9 of Appeals will reverse the jury's verdict, send the
10 case back down here, and we would try it again. Do
11 you understand?

12 THE DEFENDANT: I do.

13 THE COURT: Do you also understand that the
14 verdict has to be unanimous? So if we had -- all 12
15 jurors have to agree on a verdict. So if we had 11
16 jurors who were ruling that there was no -- that you
17 didn't violate the law and one juror who says you
18 did, we have to declare a mistrial and try it again.

19 At the same time, if we have 11 jurors that
20 find that the Government did prove the case against
21 you beyond a reasonable doubt and only one who
22 decides no, same thing. We have to declare a
23 mistrial and start all over. Do you understand that?

24 THE DEFENDANT: I do.

25 THE COURT: Okay. Now, Mr. Gomes, do you

1 have any prior criminal history?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: Well, I don't know what your
4 history is, so I'll give you this admonition, or I'll
5 explain this to you, that by entering a plea of
6 guilty, if you had no prior felony convictions, this
7 would affect your civil rights. It would mean that
8 you would no longer be able to vote, own a firearm,
9 or hold elective office. Do you understand that?

10 THE DEFENDANT: I do.

11 THE COURT: Do you also understand that in
12 the federal system we do not have an expungement law,
13 so by entering this plea of guilty, this will go on
14 your record, and I don't have a way of ever removing
15 it unless Congress passes a law allowing me to. Do
16 you understand that?

17 THE DEFENDANT: I do.

18 THE COURT: Have you had a chance to speak
19 with Mr. Williamson about the possible sentence
20 you'll receive?

21 THE DEFENDANT: Yes, I did.

22 THE COURT: Mr. Morrison. Not Mr.
23 Williamson. Sorry, Mr. Morrison.

24 MR. MORRISON: It's okay, Your Honor.

25 THE COURT: William Morris, maybe? I don't

1 know where I got that from.

2 Mr. Morrison has probably gone over all of
3 this with you, and I'll tell you, Mr. Gomes, I think
4 this is my seventh hearing today, and it sounds like
5 just a loop on a recorder; but the truth is, I have
6 to tell you these things, and we have to make a
7 record of it so that the Court of Appeals, if ever it
8 looks at it, will know that I told you all of this.
9 So --

10 THE DEFENDANT: I understand.

11 THE COURT: -- I'm sure that Mr. Morrison
12 has told you that in the federal system we have a law
13 that tells me what the minimum and maximum sentences
14 are I can give you. I have to give you a sentence
15 within the range provided by the law. Do you
16 understand that?

17 THE DEFENDANT: I do.

18 THE COURT: But in addition to the law, we
19 have sentencing guidelines to help me determine what
20 the appropriate sentence is for you. I am not
21 required to give you a sentence within the range
22 provided by the guidelines. Do you understand that?

23 THE DEFENDANT: I do.

24 THE COURT: Okay. And although I think your
25 plea agreement might have what your guideline range

1 and all that is, that's not the official calculation,
2 so I will tell you that I do not have your guideline
3 range, and I don't know what that is right now until
4 probation looks at your background and sees what your
5 criminal history is --

6 THE DEFENDANT: Uh-huh.

7 THE COURT: -- but I do have the law that
8 tells me what your sentencing range is based on the
9 law. The statutory penalty for Conspiracy to Commit
10 Money Laundering is not more than 20 years of
11 imprisonment, a fine of not more than \$500,000, not
12 more than three years of supervised release, and a
13 mandatory \$100 special assessment. Do you understand
14 that?

15 THE DEFENDANT: I do.

16 THE COURT: And the penalty for Conspiracy
17 to Possess with Intent to Distribute and Distribute a
18 Controlled Substance and Controlled Substance
19 Analogues Resulting in Serious Bodily Injury and
20 Death is not less than 20 years of imprisonment and
21 not more than life of imprisonment, a fine of not
22 more than \$2 million, not less than five years of
23 supervised release, and a mandatory \$100 special
24 assessment. Do you understand?

25 THE DEFENDANT: I do.

1 THE COURT: Okay. Do you understand that if
2 I end up giving you a sentence that's longer than
3 what you expect, that you cannot withdraw your plea
4 of guilty?

5 THE DEFENDANT: Yes.

6 THE COURT: Okay. Do you understand that we
7 don't have parole in the federal system, so whatever
8 amount of prison time you get, you will not go before
9 a parole board at some point and get out early?

10 THE DEFENDANT: I do.

11 THE COURT: Okay. I understand there is a
12 plea agreement. Would the Government state for the
13 record what the basic terms of the agreement are?

14 MR. MYERS: Yes, Your Honor. The basic
15 terms are, as the Court noted, the Defendant will
16 plead to the Information and Count One of the
17 Indictment.

18 We've outlined in the agreement the
19 guideline range that we've agreed upon, plus some
20 enhancements. I don't know how detailed, Judge, you
21 want me to go through that. I sure can.

22 THE COURT: You don't have to go through
23 everything. I just want the basics.

24 MR. MYERS: Yeah. And there's also a
25 provision for substantial assistance in this

1 particular case, and as part of that supplement,
2 we've agreed to withdraw two prior felony drug
3 convictions as part of this particular agreement. So
4 that, generally, is the --

5 THE COURT: What does the plea agreement say
6 with regard to appeal rights?

7 MR. MYERS: There's a standard waiver of
8 appeal rights contained in this particular plea
9 agreement.

10 THE COURT: And, Mr. Morrison, do you have
11 anything to add to that, that you just want to put on
12 the record?

13 MR. MORRISON: Nothing in particular except
14 that I'm grateful that the Government is willing to
15 withdraw the two prior felony drug convictions. I
16 know that's relatively unprecedented.

17 THE COURT: All right. Mr. Gomes, did you
18 listen to the statement given by the U.S. Attorney?

19 THE DEFENDANT: Yes, I did.

20 THE COURT: Okay. Were those the terms you
21 understood were contained within the plea agreement?

22 THE DEFENDANT: Yes.

23 THE COURT: Okay. Having discussed your
24 rights with you, do you still want to enter a plea of
25 guilty?

1 THE DEFENDANT: Yes, I do.

2 THE COURT: Have any promises or any threats
3 been made to you to get you to plead guilty?

4 THE DEFENDANT: No.

5 THE COURT: Are you pleading guilty because
6 it's either what you want to do or it's in your best
7 interests?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. Mr. Myers, would you
10 state for the record what the facts would show if we
11 were to have a trial on Count One of the Superseding
12 Indictment and on the Information?

13 MR. MYERS: Yes, Your Honor. This is
14 somewhat of a complicated case, Judge, so I'll do the
15 best I can to summarize the evidence that would be
16 relevant to Mr. Gomes.

17 Now, this conspiracy started in 2013 and
18 2014. Individuals in Canada, identified as Jason
19 Berry and Daniel Vivas Ceron, were housed in the
20 Drummondville Correctional Institute about an hour
21 north of Montreal. They began -- through
22 communication devices inside the prison, began to
23 broker and receive shipments of fentanyl and fentanyl
24 analogues from China.

25 THE COURT: You said inside the prison?

1 MR. MYERS: Inside the prison.

2 THE COURT: The prison is located where?

3 MR. MYERS: In Québec, about 70 miles north
4 of Montreal.

5 THE COURT: So you had some Canadian
6 prisoners running a drug operation out of the prison?

7 MR. MYERS: Yeah.

8 THE COURT: Okay.

9 MR. MYERS: That's not all. There's more.

10 THE COURT: What's funny is -- and maybe I
11 don't know anything because I live down in Arkansas,
12 but we often hear about how great Canada's penal
13 system is and how it works, and now I'm hearing that
14 you have a drug-dealing operation going on in the
15 prison. And I'm not talking about somebody just
16 bringing in drugs for the prisoners to use, but the
17 prisoners in there running the operation?

18 MR. MYERS: Right.

19 THE COURT: Oh, wow.

20 MR. MYERS: And these individuals had an
21 organization on the outside that was assisting them
22 in the distribution system, but they had
23 communication devices within the walls of the prison
24 and were orchestrating this particular operation.

25 Again, that started in 2013 and 2014.

1 Mr. Gomes, at that time, was living in Rhode Island,
2 and he and another individual started receiving
3 shipments of fentanyl to Rhode Island, and they began
4 distributing this fentanyl in the form of pills.
5 They would take fentanyl and press pills and
6 distribute them in Rhode Island. And then the
7 Defendant moved to Florida and continued that
8 operation until his arrest in October of 2017. And
9 so this was ongoing for quite some time.

10 During the course of this particular
11 conspiracy, Anthony Gomes and his girlfriend,
12 Elizabeth Ton, and a number of other coconspirators,
13 when receiving these shipments from Canada or
14 directly from China as brokered by the Canadians,
15 they would send Western Union or other money wires,
16 bank transfers, to individuals in Canada, and also,
17 at the end, bitcoin, virtual currency. All of this
18 was designed to conceal the identity of the true
19 individuals running at least the Rhode Island and
20 Florida part of this particular operation.

21 Mr. Gomes and others would have
22 coconspirators or friends send the money on their
23 behalf as part of the money laundering conspiracy.
24 And that continued throughout the -- this
25 several-year period.

1 So as this was happening, Judge, in January
2 of 2015, in Grand Forks, North Dakota, which is an
3 hour north of here, an individual named Bailey Henke
4 died from a fentanyl overdose. From that
5 investigation, law enforcement identified the local
6 traffickers in Grand Forks and arrested a number of
7 them.

8 From that particular investigation, within a
9 matter of weeks, they were able to identify one of
10 the sources of supply in Portland, Oregon, a guy
11 named Brandon Hubbard. They conducted surveillance,
12 executed a search warrant on Brandon Hubbard, and
13 found him in possession of about 250 grams of
14 fentanyl. Brandon Hubbard was dealing directly with
15 the same sources of supply in Canada, Berry and
16 Ceron.

17 As that investigation is happening, one of
18 Brandon Hubbard's coconspirators, his girlfriend,
19 actually, smuggled some of the fentanyl into the
20 correctional facility when she was arrested. There
21 were three overdoses in Portland. Two of those
22 survived, although with substantial bodily harm; one
23 of the inmates died.

24 And law enforcement in Portland initiated an
25 undercover investigation using Brandon Hubbard's

1 identification, his Wickr communication, which is an
2 application that destroys itself, designed for
3 anonymity with these traffickers.

4 Anyway, Homeland Security initiated an
5 undercover operation into the Canadian organization.
6 At least they believed it was a Canadian
7 organization. Throughout that investigation, they
8 realized that DEA in West Palm Beach, Florida, had
9 also initiated an undercover investigation into the
10 same Canadian trafficking organization. At some
11 point in time, we all realized we were working on the
12 same investigation and combined efforts, along with
13 RCMP in Canada.

14 These undercover investigations resulted in
15 a number of controlled buys that are listed in the
16 overt acts of the conspiracy. Some of those
17 purchases were delivered directly to North Dakota
18 during the undercover operation, which continued
19 until the summer of 2015 when law enforcement was
20 able to isolate a time and a place where Daniel Vivas
21 Ceron had a communication device and they searched
22 his jail cell in Canada.

23 In Canada, they found him in possession of a
24 phone and also -- I guess I would call them pay/owe
25 sheets, paper documentation of all of the individuals

1 involved -- or at least many of the individuals
2 involved in the conspiracy, including some of the
3 tracking numbers and undercover names of the agents.

4 By this time, Jason Berry had been shipped
5 to a different prison in Canada, so Vivas Ceron had
6 been running it from Drummondville. The
7 investigation continued from that point. Vivas Ceron
8 was indicted. He was deported to Columbia from
9 Canada. We arrested him in Panama, and he fought
10 extradition for about 18 months in Panama.

11 During that particular time, Vivas Ceron was
12 able to get a phone in the Panamanian jail, and,
13 actually, we learned that from Mr. Gomes; and he
14 continued to deal with the Chinese from Panama, in
15 addition to Mr. Gomes and the other coconspirators,
16 as this conspiracy continued until he was extradited
17 to the United States.

18 From that -- or during this entire time,
19 Judge, from 2013 to present, law enforcement has been
20 conducting a historical investigation into the
21 drug-trafficking activities of all of these
22 individuals.

23 There were a number of witnesses through the
24 conspiracy that confirmed Anthony Gomes and Elizabeth
25 Ton and their trafficking activities during the

1 course of this particular conspiracy, among others.

2 We also uncovered an overdose death in
3 North Carolina of James Williams and two other
4 substantial bodily harm overdoses in North Carolina
5 that are attributed to this particular conspiracy.

6 We've also identified an overdose death in
7 New Jersey, Daniel Lajterman. Both the
8 North Carolina and New Jersey overdoses are listed in
9 the Indictment. Those happened in 2014.

10 And so that kind of summarizes the overall
11 case, Judge, as best I can. In short, Anthony Gomes
12 was dealing directly with Daniel Vivas Ceron and the
13 Canadians in brokering transactions with the Chinese
14 during the entire time of the conspiracy. That
15 conspiracy branched out, basically, to most of the
16 United States, including the District of
17 North Dakota; and, of course, some of the overt acts
18 occurred in North Dakota, to establish venue.

19 When law enforcement secured an arrest
20 warrant for Anthony Gomes, he was residing in
21 Florida. Law enforcement executed a search warrant
22 at his residence in October of 2017. He was found in
23 possession of about \$162,000. During that search,
24 there was also a letter from Daniel Vivas Ceron
25 seized in his residence that further establishes the

1 connection between these individuals.

2 The reason I mentioned the money and the
3 residence in Florida, as part of this plea agreement,
4 Mr. Gomes has agreed to forfeit the \$162,836, a 2007
5 Maserati, 2016 Polaris Sportsman, and jewelry seized
6 at that particular residence in Florida valued at
7 about \$64,725.

8 The investigation would -- does reveal that
9 Mr. Gomes' primary source of income, really his only
10 source of income, or at least -- was derived from
11 drug trafficking during this time frame.

12 He did set up several businesses in Rhode
13 Island and Florida during the course of the
14 conspiracy in an attempt to hide or make his
15 drug-trafficking activities appear legitimate, and
16 Mr. Gomes was one of several conspirators that did
17 that through the course of the conspiracy.

18 So I think that's an adequate factual basis,
19 Judge, to support the pleas to Count One and the
20 Information.

21 Unless the Court has any questions, I'll end
22 at this time.

23 THE COURT: Mr. Gomes, did you listen to the
24 statement given by the U.S. Attorney?

25 THE DEFENDANT: Yes.

1 THE COURT: Was his statement accurate?

2 MR. MORRISON: Your Honor, may I take a
3 couple minutes with my client?

4 THE COURT: You can. Of course.

5 MR. MORRISON: Thank you.

6 (Mr. Morrison and the Defendant confer
7 privately.)

8 MR. MORRISON: Your Honor, before you
9 address Mr. Gomes, may I make a couple points?

10 THE COURT: Of course.

11 MR. MORRISON: Certainly, we're here so that
12 Mr. Gomes can change his plea, and we're not
13 contesting the elements.

14 There are a couple things that when we get
15 to sentencing we may very well contest, but that
16 certainly doesn't mean we want to go back on our
17 plea.

18 I think at this point there are two things
19 that Mr. Myers said that we would somewhat want to
20 clarify. It was only later on that Anthony knew that
21 Ceron and Berry were operating from prison. Early
22 on, he didn't know that.

23 I know this is -- this is a pretty big
24 conspiracy. This is -- I mean, this is a
25 consolidated priority organization target. Less than

1 100 have been designated in this century by the DOJ.
2 This is a pretty serious thing. Anthony being part
3 of it is a serious thing. But, certainly, one thing
4 we're going to do at sentencing, as anybody would, is
5 try to show his place in the overall conspiracy,
6 which compared to people like Ceron and the Chinese,
7 was relatively small.

8 Just one final point that I'd like to
9 clarify, or at least challenge at this point.
10 Mr. Myers alleged that Anthony's legitimate
11 businesses were set up to launder money. In fact,
12 they were set up to be legitimate businesses, and at
13 sentencing we would certainly contest that they were
14 set up to launder money. And as for that, I just
15 will let him speak for himself.

16 THE COURT: I understand. And your
17 statement is essentially to preserve the record so
18 that you can come back at sentencing and make those
19 arguments.

20 MR. MORRISON: I had a client a few years
21 ago who pled guilty to wire fraud, and at sentencing
22 he challenged a lot of what the Government was
23 saying, and the Court at that point questioned
24 whether he was going back on his plea agreement.

25 THE COURT: And from time to time I'll have

1 a defendant who will say: Judge, I admit that I
2 committed the offense, but I didn't do what he just
3 said I did; and I'm here to admit that I committed
4 the offense, but when he says I did this, this, and
5 this, I didn't do that.

6 That's fine.

7 MR. MORRISON: Okay.

8 THE COURT: And then that's left for
9 argument at sentencing.

10 Now, let me ask Mr. Myers. Mr. Myers, you
11 know, sometimes I'll -- almost never, but sometimes
12 I'll have a U.S. Attorney say, "Judge, if he's not
13 willing to say these things, then I don't think we
14 can enter the plea."

15 I don't think that's where you are on this,
16 is it?

17 MR. MYERS: No, Judge, not at all. And, as
18 a matter of fact, I would agree that it's likely that
19 at least early on during the conspiracy Mr. Gomes
20 didn't know that these individuals were in prison.
21 Law enforcement didn't know for sure that they were
22 in prison until we searched his jail cell. So I
23 think -- some of the nuances of the facts I think we
24 can leave to argue at sentencing. The only other
25 thing -- and as long as the Defendant admits to the

1 elements of the crime, we're fine with that.

2 The one thing, Judge, that he must admit to,
3 and I think it's important to create a record of
4 that, is that the deaths and serious bodily injury
5 were reasonably foreseeable by him based on the scope
6 of the conspiracy that was occurring. Aside from
7 that, the defense is free to argue different facts at
8 sentencing and his role and all of those things.

9 THE COURT: What's your position on that,
10 Mr. Morrison?

11 MR. MORRISON: I thank Mr. Myers for
12 bringing that up. Absolutely Mr. Gomes recognizes
13 the elements of conspiracy, and *Pinkerton* liability
14 in particular, and so of course he does admit
15 responsibility for the deaths, but at sentencing we
16 will absolutely be arguing that he took steps to
17 distance himself from the danger that fentanyl poses.

18 THE COURT: Okay. All right.

19 MR. MORRISON: Thank you, Your Honor.

20 THE COURT: I think a sufficient record's
21 been made on that.

22 All right. Mr. Gomes, did you listen to the
23 statement given by the U.S. Attorney?

24 THE DEFENDANT: Yes.

25 THE COURT: And did you listen to the

1 clarifications given by Mr. Morrison?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. As clarified by
4 Mr. Morrison, do you agree to your participation as
5 set forth by the U.S. Attorney?

6 THE DEFENDANT: Yes.

7 THE COURT: And do you understand the nature
8 of the charges against you and the maximum penalties
9 you face?

10 THE DEFENDANT: I do.

11 THE COURT: And how do you plead to Count
12 One of the Superseding Indictment?

13 THE DEFENDANT: Guilty.

14 THE COURT: And how do you plead to the
15 Information?

16 THE DEFENDANT: Guilty.

17 THE COURT: Okay. Did you, in fact, commit
18 the offense as charged in the Information?

19 THE DEFENDANT: Yes.

20 THE COURT: And did you, in fact, commit the
21 offense as charged in Count One of the Superseding
22 Indictment?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay. And, Mr. Morrison, do you
25 know of any reason why I should not accept these

1 pleas of guilty?

2 MR. MORRISON: No, Your Honor.

3 THE COURT: All right. I find that the
4 charge as set forth in Count One of the Superseding
5 Indictment and the charge as set forth in the
6 Information were committed by the Defendant, Anthony
7 Gomes.

8 I also find that Mr. Gomes is entering this
9 plea of guilty voluntarily with full knowledge of his
10 rights, the facts, and the consequences that he
11 faces, and for those reasons, I accept the guilty
12 plea.

13 Do we have any other counts that need to be
14 dismissed? I don't think we do, do we?

15 MR. MYERS: No, not at this time, Judge. We
16 typically would move to dismiss those at sentencing.

17 THE COURT: I knew that because I was told
18 that earlier. Our practice is once we enter the
19 plea, we dismiss the other counts, and I notice up
20 here, when I've been doing sentencings, at the end of
21 the sentencing somebody will say, well, I need to
22 dismiss the charges. I knew that, and I also knew I
23 would mess that up.

24 All right. What will happen at this point,
25 Mr. Gomes, is probation will come out and perform a

1 presentence investigation. Probation will look into
2 your background, will compile any offenses that you
3 have, and will list those in the presentence report.
4 Probation will also go through your family history,
5 the history of this case, and all of that.

6 Probation will issue a report that will go
7 to Mr. Morrison, and a copy will go to the
8 Government. When Mr. Morrison gets his copy, he'll
9 either sit down with you and go over it or he'll send
10 it to you. Most likely, he'll sit down with you.
11 What I ask you to do is look at that report closely,
12 because the information contained in that report will
13 be the information that the sentencing judge will use
14 to determine what an appropriate sentence is for you,
15 so if there's anything in that report that's not
16 accurate, let Mr. Morrison know.

17 What he'll do is he'll file an objection.
18 Normally, he'll sit down with probation and they'll
19 work it out. But every now and again I'll have a
20 defendant who will say, "Well, I didn't commit that
21 robbery in Chicago," and probation will look and say,
22 "Well, all of our identifiers indicate that's you" or
23 that was him, and so there's a real disagreement, and
24 we'll have to have a hearing to determine what the
25 truth is. I don't think that will happen, but every

1 now and again it does. That's why it's important for
2 you to let Mr. Morrison know if anything in that
3 presentence report is inaccurate. Do you understand?

4 THE DEFENDANT: I do.

5 THE COURT: Once that's all done, you'll
6 come back and be sentenced. My information -- or I
7 have a note here that you'll be sentenced on
8 August 6th of 2018 at 2:30, and Judge Karen Schreier
9 will be here to sentence you. Do you understand?

10 THE DEFENDANT: Yes.

11 THE COURT: Okay. Is there anything else we
12 need to take up on this case?

13 MR. MYERS: Not at this time, Judge.

14 MR. MORRISON: No, Your Honor.

15 THE COURT: All right. Well, let's adjourn
16 until 9 o'clock in the morning.

17 (These proceedings were concluded at
18 3:50 p.m.)
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1 REPORTER'S CERTIFICATE

2 I, Carolyn Taylor Pekas, Registered
3 Professional Reporter, P.O. Box 886, Fargo, North
4 Dakota, do hereby certify that the foregoing
5 thirty-eight (38) pages of typewritten material
6 constitute a full, true and correct transcript of my
7 original stenotype notes, as they purport to contain,
8 of the transcript of proceedings reported by me at
9 the time and place hereinbefore mentioned.

10
11
12 _____ /S/

13 Carolyn Taylor Pekas
14 P.O. Box 886
Fargo, North Dakota 58107

15
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17 Dated this 13th day of June, 2018.
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